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REMARKS

ON THE

L A W S

Relating to the

G A M E,

AND THE

ASSOCIATION

Set on Foot

For the PRESERVATION of it.

IN A

LETTER from a COUNTRY GENTLEMAN
to his FRIEND in TOWN.

L O N D O N :

Printed for J. SWAN, near Northumberland-
House, in the Strand. M DCC LIII.

[Price Six-pence.]

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G. A. M. E.

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Rec. June 27, 1900.
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them, that may engage the *Gentlemen* of the *Association* (rather than proceed in enforcing those Laws as they now stand) to use their Weight and Interest for such an Alteration of them as may render them more certain, and less liable to various Constructions (as I am well assured they are at present) which serve only to harass and perplex the Subject by expensive proceedings at Law.

I must be so candid as to think that the Intentions of the *Gentlemen Associators* were *primarily* (whatever Lengths have been gone since) to prevent the common Poacher from destroying the *Game*, and to suppress a Set of idle and dissolute People, who, by such Practices, were become

a Burden to the Community, and to oblige the Husbandman and Labourer to attend their proper Avocations, not to deprive the *Man of Property*, the *industrious Tenant*, or the *fair Sportsman* of a Morning's Recreation, or the Taste of a Hare or Partridge; but this good Intention of the *Associators*, like most others, is perverted by the Arts and Contrivances of self-interested and designing Men, who, in eager Imitation of that destructive Vigilance wherewith the ugly poisonous Spider views each unwary Insect, are ever upon the Watch for an Opportunity of entangling and perplexing Mankind.

I cannot but think that if the *Gentlemen* of the *Association* had,

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before

before they entered into it, carefully read over and considered the several *Acts of Parliament* relating to the *Game* (no less than sixteen in Number) they would not have engaged in enforcing Laws, which must have appeared to them extremely voluminous, obscure, uncertain, and seemingly contradictory, as I may venture to say these are. To evince this, I shall only give two or three Instances amongst many others which will occur to every one who will take the trouble to read them.

By the *Stat. 11 Hen. 7.* which is unrepealed, it is *enacted*, That no Person shall take Pheasants or Partridges by Nets, Snares, or other Engines (out of his Warren) upon the Freehold of any other
Per-

Person, without Licence of the Owner, on the Forfeiture of Ten Pounds, the one half to the Party that will sue for the same, and the other Part to the Owner of the Ground. Yet, by the Stat. 22 and 23 *Cha. 2.* and all the subsequent Acts, qualified Persons may take Pheasants or Partridges *ad Libitum* without being subject to the Penalties inflicted by the former Act : And the said Act of *Cha. 2.* fixes the *Qualification* of the Persons who are intitled to kill Game to those having one hundred Pounds a Year Freehold, one hundred and fifty Pounds a Year Leasehold for ninety-nine Years, or any longer term ; and to the Sons and Heirs apparent of Esquires. I would gladly know what the true and determinate
Meaning

Meaning of the word Esquire is ;
 I do not believe the Law has
 determined its true Sense, and for
 my Part, I have no clear Idea of
 what it is, though I give that
 Title (if it is one) to many of
 my Acquaintance; but do not
 know by what Right they claim it.
 This therefore is a great Obscurity
 in a very material Part of the Law.

I shall next mention what seems
 to be a Contradiction in those
 Laws. The Act of *William and
 Mary*, declares, That if Game is
 found, upon Search by Authority,
 in the Houses of unqualified Per-
 sons suspected to have Game, such
 Persons, unless they give an Ac-
 count how they came by it, and
 produce the Party of whom it was
 bought, that is, produce the Poacher,
 if

if it was from such they had it; shall forfeit the Penalty inflicted by that Act. But the Act of the 9th of Queen *Anne* comes and takes away the Right the supposed Offender has to justify himself of producing the real Offender, by inflicting the Penalty indefinitely on all such in whose Possession Game is found, if not qualified, or come by the Means of a qualified Person; and this Act does not repeal the Statute of *William* and *Mary*, or any Clause in it.

The next Remark I shall make is on the Uncertainty of these Laws in general, which has occasioned such various and different Constructions of them: And here I must take notice, that,
by

by the Statute of the 5th and 9th *Anne*, there is a Penalty inflicted on the Person that kills Game, on the Seller, and also on the Buyer (if a Higler, or such other Person as described in the 5th *Anne*) and on the Person in whose Possession the Game is found, i. e. Five Pounds for each Hare, or Partridge. Now it is contended for by some, that, for one and the same Hare, a Penalty may be recovered on the Killer, on the Seller, and on twenty other Persons, if that single Hare can be proved to have been in the Possession of so many, which may possibly happen; but I would leave it to every one's serious Consideration, whether it is possible to conceive that this could be the Intention of the Legislature at the time

time of making those Laws; for, if so, one hundred and ten Pounds may be recovered and paid for one single Hare, which to me seems greatly unreasonable.

All the Acts for the Preservation of the Game till that of 8 Geo. 1. directed the Informations against the Offenders to be made before a Justice of Peace, which is extremely just and reasonable; first, because as the Objects of these Laws were the common Poachers, a Set of mean and poor sort of People, it was supposed they could not pay the Penalty inflicted by Law, and the Justice therefore has a Power, where the Penalty cannot be levied on account of the Poverty of the Offender, to inflict corporal Punishment, by committing him to hard Labour. And secondly,

C

because

because the Justice of Peace living upon the Spot, has the better Knowledge of the Characters of the Parties, and the Circumstances of the Case, and from thence with more Ease can determine with Justice the Point before him.

It is impossible, within the Compass of a Letter, to explain the numberless Objections that may very reasonably be made to these Laws as they now stand, nor can I point out how they can be explained or amended; but I should think in general that more severe Penalties should be inflicted not only on the common Poachers, who make a Traffic of it, but on the great and uncommon ones, who destroy Game by Wholesale, by Tunnelling, Setting-dogs, &c.
and

and who frequently employ their Engines by Night, to take a hundred, or a hundred and fifty Brace of Birds in two Hours time, which I have been well informed has been lately done. Another Method of destroying the Game should be prevented by a more severe Punishment than at present is inflicted, whatever Degree the Offender may be of, and that is, when the Corn is green, the going out and destroying of young Hares before they can run, and young Partridges before they can fly. These are the great Instruments of the Destruction of the Game, and worthy the Consideration of the Legislature; and if they should think fit to revise the Game Laws, and explain and amend them, I do not doubt but

they will have a due Regard to their industrious Tenants, and will think it very reasonable that a Farmer who rents a Year, and upwards should be allowed to sport at proper Seasons, at least in Company with a qualified Person, and to kill a Hare or Partridge, and to eat it at the Farmer's own Table. In short, all the Artillery of the Law should be levelled at those, and those only, let them be ever so great, who at any time make a most unreasonable Slaughter of the Game by unfair or undue Means, unworthy of a true and generous Sportsman; and at the little ones, who do it out of sordid and mercenary Views of Gain, and neglect their Labour and Families to idle their time away in the Fields, in Pursuit

suit of what brings them no real Advantage or Profit in the End.

Methinks I could wish to see the Time when all the Game Laws shall be collected into one Act of Parliament, which I conceive may very easily be done, and laid out and explained in so clear and perspicuous a Manner, as when it comes to be read by Authority at proper Seasons to the Country People, the poor Peasant, whom it chiefly concerns, may at one View see the Penalties or Punishment he incurs by offending against the Law, which will probably strike such a Terror in him, as to engage him to think that his Wife and Family are more dear to him, and worthy his Attention, than the best Game in England, If this should ever
be

be the Case, there will be no need of Associations or Subscriptions to enforce a Law so plain, and so well promulgated. And indeed it is very well worthy the Consideration of the Gentlemen of the Association, that it will be infinitely more eligible to make a Law that will in a great measure execute itself, than for so many Noble and Right Honourable Persons to be under a Necessity to step out of their way (if I may be allowed the Expression) in order to come to the Aid and Assistance of the Civil Magistrate to execute the Laws.

I am persuaded those noble and right honourable Persons will readily concur with me in this Point, *viz.* That all kind of Associations or Combinations of Men not authorised

thorised by Law, are to be dreaded, and if possible avoided; and that nothing can justify any of them but the immediate Danger of the Subversion of the Government itself, such as of late was our unhappy Situation where *all* joined to save *all*. But I thank God the Storm is over, and may it never return again.

There is one bad Consequence resulting from this kind of Association, which is, that some may make use of its Power and Interest as Instruments to revenge their own private Quarrels, and gratify their particular Resentment against their Neighbours; and there is another Evil which must naturally arise from the necessity the Gentlemen of the Association

sociation are under of employing Lawyers to carry their Purposes into Execution, who, if they happen to be greedy of Gain, will, it is to be feared, rather consult their own lucrative Views, than the Honour or Interest of those they are employed by.

I should be afraid that if Associations were encouraged to carry penal Laws into Execution, it might not only prove very hurtful and detrimental to many innocent Persons, but (what is of infinitely greater Consequence) dangerous to the Public. For if a Variety of Combinations were formed upon this Plan, and, under the same specious Pretence, they might, by the great Influence they must necessarily have over
Numbers

Numbers of People, become so formidable, as to have it in their Power to form Projects dangerous to the Government, and subversive of the Liberties of the People.

Another Point seems to me of great Importance, and worthy the serious Consideration of every Gentleman before he engages in Affociations of this Kind, which is the indispensable Necessity they are under of employing and encouraging that most vile and detestable Set of Men the common Informers, who are inimitably well characterised in a late Daily Paper in the following most excellent Words.

‘ Calumny and Perjury are not
 ‘ only Crimes of the blackest and
 D ‘ basest

' basest Nature, but, where coun-
 ' tenanced, are the Ruin of Nati-
 ' ons; they make the Subject
 ' miserable, and the Prince infam-
 ' ous to all Posterity. The
 ' strained Evidence against *Phi-*
 ' *lotas*, darkens the Glory even
 ' of *Alexander*. The *Athenians*
 ' called informers *Sycophants*; yet,
 ' by encouraging of them, the ten
 ' Captains or Admirals suffered
 ' Death. The thirty Tyrants
 ' were established, and the Liber-
 ' ty of *Athens* lost by the def-
 ' troying the best of Men; the
 ' virtue of *Socrates* and *Phocion*
 ' could not protect them."

' In *Rome*, *Caligula*, *Nero*, and
 ' *Domitian* shined to all Posteri-
 ' ty foremost in the List of the
 ' Encouragers of Informers. In
 ' free

‘ free Countries and mixed Mo-
 ‘ narchies most dreadful are those
 ‘ Times, when Informers, the
 ‘ most infamous Race of Men,
 ‘ are made use of to forward
 ‘ Court Cabals.

‘ When Calumny is employed
 ‘ to ruin the Credit of Mer-
 ‘ chants, and Perjury to disgrace
 ‘ Courtiers.

‘ When *Henry VIII.* reigned,
 ‘ *Cromwell*, the Glory of that
 ‘ Age, and the Delight of Poste-
 ‘ rity, was a Favourite. The
 ‘ Bishop *Gardiner*, when he could
 ‘ not otherwise disgrace him, out
 ‘ of a pious Zeal got false Evi-
 ‘ dence to swear his Life away.

‘ Did

Did not *England* lose the
Use of the great *Sir Walter*
Raleigh by Cabals at Court, en-
couraging Informers, and forcing
Evidence.

I am, Sir,
Yours, &c.

E. M. B.

